

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

No. 13 CR 1551 JB

DAISY ALANIZ,

Defendant.

SIXTH UNOPPOSED MOTION TO CONTINUE TRIAL

COMES NOW the defendant by and through counsel and moves this court to continue the trial currently set for February 21, 2014 at 9:00 a.m. As grounds, defendant states:

1. Ms. Alaniz has been found incompetent and has been committed to the custody of the Bureau of Prisons for evaluation and treatment. (Doc # 49) Speedy trial is tolled from the date of filing of the original motion for competency evaluation on June 18, 2013 (Doc # 31) to the entry of an order finding Ms. Alaniz competent or further proceedings consistent Chapter 313 of Title 18 of the Federal Criminal Code (Offenders with Mental Disease or Defect). 18 U.S.C. § 3161(h)(1)(A).

2. “. . . [T]he Constitution does not permit trial of an individual who lacks ‘mental competency.’ ” *Indiana v. Edwards*, 554 U.S. 164, 170 (2008). Pursuant to 18 U.S.C. § 3161(h)(7), the ends of justice served by not putting incompetent people on trial and the orderly and timely resolution of the issue of Ms. Alaniz’s competency outweigh the best interests of the public and the defendant in a speedy trial. Consequently, a continuance of trial is appropriate.

3. As of the filing of this motion, Ms. Alaniz is in transit from the Federal Medical Center for Prisoners in Carswell, Texas to Albuquerque. It is not possible to say with certainty when Ms. Alaniz will arrive in the Albuquerque area. For security reasons, the Bureau of Prisons does not release prisoner movement details. Once Ms. Alaniz is returned to New Mexico the court will be required to schedule and hold a competency hearing to make its own determination of competency. If Ms. Alaniz is found competent, counsel will need time to prepare for trial and/or attempt to negotiate a plea agreement. At a minimum, assuming an unusually expeditious transportation of Ms. Alaniz, it will take at least 30 days from February 21, 2014 to resolve the issue of Ms. Alaniz' competency and allow a reasonable amount of time to prepare for trial or negotiate a resolution.

4. Counsel for the government, AUSA Chuck Barth, does not oppose this motion.

WHEREFORE, the defendant respectfully requests this court to continue the trial currently set for February 21, 2014 at 9 a.m. for at least 30 days and for such other and further relief as the court deems proper.

I hereby certify that a true copy of the foregoing was delivered to AUSA Chuck Barth through CM/ECF this 14th day of February, 2014.

Electronically filed

Respectfully submitted,

FEDERAL PUBLIC DEFENDER
111 Lomas NW, Suite 501
Albuquerque, NM 87102
(505) 346-2489

Electronically filed
Stephen P. McCue, FPD
Counsel for Ms. Alaniz